

Exhibit 19

1 UNITED STATES DISTRICT COURT

2 WESTERN DISTRICT OF NEW YORK

3 -----
4 **BLACK LOVE RESISTS IN THE RUST, ET AL.,**
5 **INDIVIDUALLY AND ON BEHALF OF A CLASS OF**
6 **ALL OTHERS SIMILARLY SITUATED,**

7 Plaintiffs,

8 -vs-

1:18-cv-00719-CCR

9 **CITY OF BUFFALO, N.Y., ET AL.,**

10 Defendants.
11 -----

12 **EXAMINATION BEFORE TRIAL**

13 **OF BYRON LOCKWOOD**

14 **APPEARING REMOTELY FROM**

15 **BUFFALO, NEW YORK**

16
17 August 10, 2023

18 At 11:00 a.m.

19 Pursuant to notice

20
21 REPORTED BY:

22 Rebecca L. DiBello, RPR, CSR(NY)

23 APPEARING REMOTELY FROM ERIE COUNTY, NEW YORK

DEPAOLO CROSBY REPORTING SERVICES, INC.

135 Delaware Avenue, Suite 301, Buffalo, New York 14202
716-853-5544

—BYRON LOCKWOOD—

1 Force and the Housing Unit reporting through
2 the schools chief to you.

3 MR. SAHASRABUDHE: Objection to form.

4 A. Yes. That's what the chart is showing.
5 School chief, I didn't have no day-to-day
6 dealings with them. It was just -- that's
7 just the operational -- that's just the chart.

8 Q. Do you recall who the schools chief was when
9 you were the deputy commissioner of
10 administration?

11 A. I'm trying to think in '13. I don't know if
12 that was -- I know Brinkworth was the school
13 chief at one time and then he was removed and
14 Aaron Young was put in there. I really
15 couldn't tell you what year that was, though,
16 when Aaron Young took over.

17 Q. And did Chief Brinkworth and Chief Young
18 report to you?

19 A. Yes, but before they added this Strike Force
20 -- and what else they got on there? It was
21 just -- they were answering to me for the
22 school resource officers and then I'm assuming
23 that the commissioner felt that Strike Force

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—BYRON LOCKWOOD—

1 know.

2 Q. It's not a document that you encountered in
3 your day-to-day work?

4 A. No.

5 Q. Would you be in a position to know if that
6 document was given to officers prior to them
7 running a checkpoint?

8 MR. SAHASRABUDHE: Objection.

9 A. I wouldn't know that.

10 Q. And if Housing Unit or Strike Force officers
11 ran a checkpoint without that document, would
12 you know that?

13 A. No.

14 Q. Did you ever conduct any oversight over the
15 checkpoints?

16 A. No.

17 Q. Did you ever conduct any evaluation of the
18 checkpoints?

19 A. No.

20 MR. SAHASRABUDHE: Objection to form.

21 Q. This will be Lockwood 4. I will make it
22 bigger. The Bates number is COB 226141. If
23 we scroll to the top we can see this is a memo

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—BYRON LOCKWOOD—

1 center, no. No, I didn't have.

2 Q. So you would review them, but not necessarily
3 approve or disapprove them?

4 A. If it was coming from Erie County I would just
5 review them, look at them and I may have had
6 some discussion with the training academy
7 captain about it, but this document that
8 you're showing me now, I can't really say if
9 that was or not.

10 Q. Let's look at the box on the top right that
11 says reasons for vehicle and traffic laws.
12 Can you read to me the fourth reason in this
13 box?

14 A. It's got to be a little bigger.

15 Q. Okay.

16 A. General revenue. Generate revenue.

17 Q. Correct. Do you agree that generating revenue
18 is one of the reasons to enforce vehicle and
19 traffic laws?

20 MR. SAHASRABUDHE: I didn't hear a
21 portion of that question. You cut out. Sorry.

22 Q. I asked if you agree that generating revenue
23 is one of the reasons for vehicle and traffic

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—BYRON LOCKWOOD—

1 laws?

2 A. I guess you generate revenue from it, yeah.

3 Yes.

4 Q. I'm moving towards the second page of this
5 PDF. And this is the basic course for police
6 officers. It says at the top -- this is also
7 used to train Buffalo Police officers at the
8 academy.

9 And do you agree with me that this says
10 that one of the reasons for vehicle and
11 traffic laws is revenue generating?

12 A. Is that on this document that you're showing
13 me?

14 Q. Yes. Let me move it up. Do you see it now?

15 A. Yes. I see it.

16 Q. Reasons for vehicle and traffic laws include
17 revenue generating.

18 A. Yes.

19 Q. And moving on to the July, 2018 training
20 materials, you would have been commissioner at
21 this time, right?

22 A. Yes.

23 Q. And again, do you see this box, reasons for

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—BYRON LOCKWOOD—

1 vehicle and traffic laws?

2 A. Yes.

3 Q. Again, the training materials included that a
4 reason for vehicle and traffic laws is to
5 generate revenue, right?

6 A. Yes.

7 Q. Are you aware of any other written materials
8 that would have indicated whether the role of
9 police is to generate revenue through
10 enforcing Vehicle and Traffic Law?

11 MR. SAHASRABUDHE: Objection to form.

12 A. No. I can't think of anything else. Not at
13 this particular time, no.

14 Q. In July, 2015 the City of Buffalo launched the
15 Buffalo Traffic Violations Agency, right?

16 A. Yes.

17 Q. And that permitted the city to take over
18 specific adjudications for the state, right?

19 MR. SAHASRABUDHE: Objection to form.

20 A. Yes.

21 Q. And this says the city can keep most of the
22 revenue for the traffic tickets for itself
23 rather than giving most of it to the state,

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—BYRON LOCKWOOD—

1 A. Yes. That's doing their job.

2 Q. Are you familiar with the practice of multiple
3 ticketing?

4 MR. SAHASRABUDHE: Objection to form.

5 A. I'm familiar with it.

6 Q. We'll call that issuing more than one ticket
7 in a single stop, okay?

8 A. Okay.

9 Q. Did you ever provide any guidance to the
10 Strike Force and the Housing Unit on multiple
11 ticketing?

12 A. Can you repeat that? Did I ever --

13 Q. Provide guidance to the Strike Force and
14 Housing Unit with respect to multiple
15 ticketing?

16 A. Not that I can recall, but I wasn't no fan of
17 it.

18 Q. Why were you not a fan of multiple ticketing?

19 MR. SAHASRABUDHE: Objection to form.

20 A. I just think that giving a lot of tickets for
21 like tinted windows, it's not that you can't
22 give them. You can give a ticket for each
23 dark tinted window, but me personally, I'm

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—BYRON LOCKWOOD—

1 just not a fan of that.

2 Q. And why are you not a fan of giving those kind
3 of tickets?

4 A. I'm just not a fan of it. I just don't think
5 -- I just think one ticket for tinted window
6 is good enough or maybe two, but for each
7 window I'm just not a fan of it.

8 Q. Were you aware that Strike Force officers had
9 a common practice of issuing four tickets, one
10 for each window?

11 MR. SAHASRABUDHE: Objection to form.

12 Q. In a single stop?

13 MR. SAHASRABUDHE: Objection to form.

14 A. Yes.

15 Q. Did you ever instruct them that they should
16 not do that?

17 A. I didn't instruct the officers, but I
18 expressed my dissatisfaction with the chief
19 and with the commissioner about it.

20 Q. And when did that occur?

21 A. I don't know when it occurred. It was just
22 verbally. It wasn't no email or whatever and
23 I couldn't tell you what year it was. It was

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—BYRON LOCKWOOD—

1 just verbally.

2 Q. What caused you to express your
3 dissatisfaction with the practice?

4 A. I just didn't like it.

5 Q. Was there a particular event that occurred
6 that prompted you to say something?

7 A. No.

8 Q. And what did you say?

9 A. I just said I don't think it's necessary to
10 give a ticket for each dark tinted window.

11 Q. And did anything happen after you said that?

12 A. No. I don't think so. Mentioned it to the
13 chief and the commissioner and I don't know if
14 they took it up with them or not. I just
15 mentioned it.

16 Q. Did you check to see whether the multiple
17 tinted windows ticketing practices were
18 continuing after this after you mentioned it?

19 MR. SAHASRABUDHE: Objection to form.

20 A. No. I didn't check into it because I know
21 that it was something that they can do. It
22 wasn't illegal what they were doing. It was
23 just that I didn't -- me particularly didn't

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1 care for it.

2 Q. Well, regardless of whether it was legal,
3 couldn't you direct the officers not to do it?

4 MR. SAHASRABUDHE: Objection to form.

5 A. I'm not going to direct the officer not to do
6 his job. If it's part of his job then he's
7 going to do what he's going to do as long as
8 it was part of the job.

9 Q. So it's your testimony that issuing four
10 tinted windows tickets in a single stop is
11 part of the officer's job?

12 MR. SAHASRABUDHE: Objection to form.
13 That's not what he said.

14 A. It's legal. It's part of the V&T so they can
15 do it. So it's part of their job. They can
16 do that.

17 Q. Were you aware that the Strike Force and the
18 Housing Unit engaged in more multiple
19 ticketing than other units of the BPD?

20 MR. SAHASRABUDHE: Objection to form.

21 A. I know they issued a lot of tickets, but I
22 didn't measure their writings compared to
23 traffic or the districts.

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1 MR. SAHASRABUDHE: Objection to form.

2 Q. And are you aware of any guidance that covers
3 the exercise of that discretion? How does the
4 officer make that decision?

5 MR. SAHASRABUDHE: Objection to form.

6 A. I guess it would be on the officer to decide
7 if he's going to, you know, write a ticket.
8 You know, if it's a major, like a serious
9 accident where there is injuries, then you're
10 expected to write summonses, tickets. But if
11 it's something where someone, you know, didn't
12 -- ran a stop sign or didn't change lanes
13 without putting the signal on, then I guess
14 you can use your discretion on that.

15 Q. Do you think that Black drivers commit more
16 traffic violations than White drivers?

17 MR. SAHASRABUDHE: Objection to form.

18 A. No.

19 Q. Were you aware that the BPD issued more
20 traffic tickets to Black drivers than White
21 drivers?

22 MR. SAHASRABUDHE: Objection to form.

23 A. Yes. I heard. I heard. I've been told that,

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1 yes.

2 Q. And who told you that?

3 A. Some of the officers felt that more Black
4 drivers getting tickets than White. It was
5 some of the officers just speaking out. I'm
6 not going to say no names.

7 Q. Well, I would like to know which officers were
8 saying this and you are required to answer the
9 question.

10 A. I can't remember.

11 Q. Would these have been line officers?

12 A. What is a line officer?

13 Q. Just officers, just police officers. Not
14 lieutenants or captains or chiefs. Officers.

15 A. Just officers.

16 Q. Were they Strike Force officers?

17 A. It was just officers where you just if you out
18 and just talk. People talking. Just talking.

19 Q. Were they Black officers?

20 A. Yes.

21 Q. What were the names of the officers?

22 MR. SAHASRABUDHE: Objection to form.

23 A. It was a group of officers talking. I'm

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—BYRON LOCKWOOD—

1 Q. Well, I can tell you that I have looked for
2 it. I know for a fact that more tickets were
3 issued to Black drivers than White drivers.
4 If it's not that Black drivers were committing
5 more traffic violations what is the reason for
6 that?

7 MR. SAHASRABUDHE: Objection to form.

8 A. That would be the officer who gave the tickets
9 would have to -- was giving the tickets would
10 have to answer that. I can't answer that
11 question. I just can't.

12 Q. Did you ever take any affirmative steps to
13 investigate whether BPD officers were engaging
14 in racial profiling?

15 A. No.

16 MR. SAHASRABUDHE: Objection.

17 Q. Did you ever take any affirmative steps to
18 investigate whether BPD officer were engaging
19 in racially biased policing?

20 A. No.

21 Q. Did you know that BPD officers sometimes used
22 racial slurs when carrying out their duties?

23 MR. SAHASRABUDHE: Objection to form.

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—BYRON LOCKWOOD—

1 A. The thing is that they would complain, but
2 when Internal Affairs asked someone to come in
3 to sign a complaint most of the time they
4 didn't come back.

5 Q. So you felt that your hands were tied because
6 the complainants weren't going forward with
7 complaints?

8 MR. SAHASRABUDHE: Objection to form.

9 A. If someone used racial slurs to someone, a
10 citizen, the only way I would have substantial
11 evidence is they would have to come in and
12 they would have to go to Internal Affairs and
13 file -- and make a report. Not only a report,
14 they would have to give a statement and
15 Internal Affairs would investigate it.

16 Q. Are you saying that the only way for you to
17 address the use of racial slurs by officers is
18 through the Internal Affairs complaint
19 investigation process?

20 MR. SAHASRABUDHE: Objection to form.

21 A. That or if I heard it personally I would
22 address it.

23 Q. Is it appropriate for officers to use racial

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—BYRON LOCKWOOD—

1 to the lieutenants.

2 Q. And if the chief or captain -- in this case it
3 happens that the chiefs and the captains have
4 testified that they did not provide those
5 instructions. So then was it just coming from
6 the lieutenants?

7 MR. SAHASRABUDHE: Objection to form.

8 A. If they wasn't providing it then I'm assuming
9 it was coming from the lieutenants because I
10 always thought that it would come from the top
11 down to the bottom.

12 Q. Okay. And we were speaking about the Strike
13 Force, but do you have any reason to think
14 that the Housing Unit operated differently?

15 MR. SAHASRABUDHE: Objection.

16 A. The Housing Unit was strictly housing complex.
17 You know, their job was housing complex and
18 they would get the order. Unless their chief,
19 you know, didn't give the lieutenants a
20 specific assignment then I'm quite sure the
21 officers would go from one complex to the next
22 complex to the next one.

23 Q. Okay. In those instances when you did receive

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1 scroll down he is forwarding you an email from
2 Malcolm Ertha who is with the City Council and
3 the subject is Unanswered Questions From
4 Budget Public Hearings. And I'll let you read
5 the email for a minute.

6 A. Okay.

7 Q. So in this email the Common Council is
8 requesting information from the BPD concerning
9 traffic checkpoints, right?

10 A. Yes.

11 Q. And by sending you the email did Commissioner
12 Derenda task you with responding to the Common
13 Council?

14 MR. SAHASRABUDHE: Objection to form.

15 A. He was sending me the email to make sure that
16 I gathered this information and sent it over
17 to the Council. Once again, I believe it was
18 just him and I that was, you know,
19 commissioner and deputy commissioner and I
20 normally go over it every year for the budget,
21 do the budget while representing the police
22 department with our budget and this is one of
23 the workshops and they wanted this

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—BYRON LOCKWOOD—

1 information, so I believe I provided it for
2 him.

3 Q. Okay. So you would have been responsible for
4 providing the information that they were
5 requesting?

6 A. Yes.

7 Q. And did you gather this information -- well,
8 first of all, did you provide it?

9 A. I would think I did provide it for him. I
10 gave him as much as what I can gather and give
11 to him.

12 Q. And would you have gathered the information
13 yourself or asked somebody else to gather it
14 for you?

15 A. I would have had someone else gather it for
16 me. I believe that probably would have been
17 Inspector Strano.

18 Q. Let's look at another email. This one is
19 dated May 8th, 2017 so a few days later, COB
20 041705, and it's from Captain Serafini to the
21 commissioner and you and it says, "Traffic
22 safety checkpoint locations and it says,
23 Commissioner, attached are the traffic safety

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—BYRON LOCKWOOD—

1 checkpoint locations from January 1st, 2017
2 through May 7th, 2017. If you need any more
3 information please let me know."

4 So would this information have been
5 compiled in response to the Common Council
6 request?

7 MR. SAHASRABUDHE: Objection to form.

8 A. It could have been. I know I gave the -- I'm
9 almost positive when I came back I probably
10 gave the order to Joe Strano. I mean, well,
11 after the commissioner sent it to me I
12 probably went to Joe Strano and told him to
13 gather this information for me.

14 Q. Do you recall receiving it from Strano?

15 MR. SAHASRABUDHE: Objection to form.

16 A. I'm quite sure that I probably would have got
17 the information from Strano and handed over --
18 either I would have brought it over there with
19 me or he would have brought it with him over
20 there to the Council. The Council asks for a
21 lot of things and this one specific one I
22 would say that I gave them what they was
23 asking for because I don't think -- I don't

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—BYRON LOCKWOOD—

1 know if there was any, you know, that they had
2 to send another email over requesting it
3 again. I don't know. Usually when they ask
4 for something I get it for them.

5 Q. Okay. You can go ahead and look at the
6 checkpoint locations there following. We can
7 look down the list. If you need it to be
8 bigger or scroll up?

9 A. Bigger. Can you make it bigger?

10 Q. Let me know when I can scroll down.

11 A. You can scroll down.

12 Q. I'll keep scrolling a little more so you can
13 get a sense of what is here. Would you agree
14 that as you're looking at the intersections
15 the majority of them are in Black
16 neighborhoods on the East Side of Buffalo?

17 A. Yes.

18 MR. SAHASRABUDHE: Objection to form.

19 Q. Is that a surprise?

20 MR. SAHASRABUDHE: Objection to form.

21 Q. It's consistent with your understanding at the
22 time of where the Strike Force was running the
23 majority of its checkpoints?

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—BYRON LOCKWOOD—

1 MR. SAHASRABUDHE: Objection to form.

2 A. I would say that it was -- right here is
3 mostly the East Side. I do see a few in North
4 Buffalo and South Buffalo, but the majority of
5 them is on the East Side.

6 Q. At the time did you form an opinion of why the
7 Common Council was requesting disclosure of
8 checkpoint locations?

9 MR. SAHASRABUDHE: Objection to form.

10 A. No. I can't remember why they requested this.
11 I just can't remember. I don't even remember
12 the email, to be honest with you.

13 Q. And that should have been, for the record,
14 Lockwood 20. This will be Lockwood 21. This
15 is another Serafini email dated June 29th,
16 2017. It's COB 016339.

17 You're copied on the email. And you can
18 go ahead and read it.

19 A. Okay.

20 Q. And so this email says that you want
21 adjustments to the checkpoints and the
22 adjustments that you wanted were out of 21
23 weekly checkpoints only four would be

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—BYRON LOCKWOOD—

1 records. What we needed, he would pull those.

2 Q. This is going to be Lockwood 23. This
3 document is COB 251775. This concerns a FOIL
4 request that the BPD received asking for
5 checkpoint locations.

6 A. Can you make that a little bigger?

7 Q. Yes. So this was also in July of 2017.

8 A. Yes. FOILs, Captain Antonio took care of
9 FOILs.

10 Q. And this particular email Captain Serafini is
11 making you aware of the request and he's
12 confirming that in fact the BPD does keep
13 track of checkpoint locations and has records
14 of checkpoint locations, right?

15 A. Right.

16 Q. And that's consistent with your understanding?

17 A. Yes. BPD kept records of checkpoints.

18 Q. This will be Lockwood 24 and it's COB 041727.
19 This is a Serafini email from August, 2017 and
20 it says new checkpoint form/policy and it's
21 the new form -- creation of a new form called
22 the Traffic Safety Checkpoint Tally Sheet and
23 the tally sheet -- here's a blank tally sheet

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DEPAOLO CROSBY REPORTING SERVICES, INC.

Rebecca Lynne DiBello, CSR, RPR
Notary Public - State of New York
No. 01D14897420
Qualified in Erie County
My commission expires 5/11/2027

Rebecca Lynne DiBello

IN WITNESS WHEREOF, I have hereunto
subscribed my name and affixed my seal this
26th day of August, 2023.

I further certify that I am neither counsel
for nor related to any party to said action,
nor in anyway interested in the outcome
thereof.

That the witness whose testimony appears
hereinbefore was, before the commencement of
their testimony, duly sworn to testify the
truth, the whole truth and nothing but the
truth; that said testimony was taken pursuant
to notice at the time and place as herein set
forth; that said testimony was taken down by me
and thereafter transcribed into typewriting,
and I hereby certify the foregoing testimony is
a full, true and correct transcription of my
shorthand notes so taken.

I, Rebecca Lynne DiBello, CSR, RPR, Notary
Public, in and for the County of Erie, State of
New York, do hereby certify:

STATE OF NEW YORK)
COUNTY OF ERIE)

1 UNITED STATES DISTRICT COURT

2 WESTERN DISTRICT OF NEW YORK

3 -----
4 **BLACK LOVE RESISTS IN THE RUST, ET AL.,**
5 **INDIVIDUALLY AND ON BEHALF OF A CLASS OF**
6 **ALL OTHERS SIMILARLY SITUATED,**

7 Plaintiffs,

8 -vs-

1:18-cv-00719-CCR

9 **CITY OF BUFFALO, N.Y., ET AL.,**

10 Defendants.
11 -----

12 **CONTINUED EXAMINATION BEFORE TRIAL**

13 **OF BYRON LOCKWOOD**

14 **APPEARING REMOTELY FROM**

15 **BUFFALO, NEW YORK**

16
17 August 17, 2023

18 At 1:00 p.m.

19 Pursuant to notice
20

21 REPORTED BY:

22 Rebecca L. DiBello, RPR, CSR(NY)

23 APPEARING REMOTELY FROM ERIE COUNTY, NEW YORK

DEPAOLO CROSBY REPORTING SERVICES, INC.

135 Delaware Avenue, Suite 301, Buffalo, New York 14202
716-853-5544

1 MR. SAHASRABUDHE: Objection to form.

2 A. No.

3 Q. But you knew afterwards, right?

4 MR. SAHASRABUDHE: Objection to form.

5 A. No. Actually, this is my first time hearing
6 that.

7 Q. Did you ever undertake any internal
8 investigations into the Buffalo Police
9 Department's tinted windows ticketing
10 practices?

11 MR. SAHASRABUDHE: Form.

12 A. No.

13 Q. The article specifically mentions allegations
14 that BPD disproportionately issued tinted
15 windows tickets in black and brown
16 neighborhoods and your response was to state
17 that since you became commissioner tickets for
18 tinted windows had been issued across Buffalo.

19 How did you know that this was true?

20 MR. SAHASRABUDHE: Objection to form.

21 A. Did I say that in this article?

22 Q. You did and I can show it to you. I can share
23 the screen again. This is here and it says --

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1 it actually refers to this lawsuit which
2 alleged the city focused on certain
3 neighborhoods, and Lockwood said since he
4 became commissioner tickets have been issued
5 for tinted windows across Buffalo.

6 How did you know that this was true?

7 MR. SAHASRABUDHE: Objection to form.

8 A. I would say that if we're going to ticket --
9 my theory is if we're going to ticket we're
10 going to ticket, you know, all across Buffalo,
11 not a certain area.

12 Q. So is it fair to say that the statement was
13 based on wishful thinking?

14 MR. SAHASRABUDHE: Objection to form.

15 A. No.

16 Q. What was the basis for the statement that
17 tickets were issued across Buffalo?

18 MR. SAHASRABUDHE: Objection to form.

19 A. That was -- that's my belief, that it was
20 issued all across Buffalo. I didn't have no
21 complaints that it was in one neighborhood or
22 Black neighborhoods. I didn't have those
23 complaints on my desk.

1 Q. But you didn't check the data to see where
2 tinted windows tickets were actually being
3 issued, did you?

4 MR. SAHASRABUDHE: Objection to form.

5 A. No.

6 Q. I'm sorry. I didn't hear that. Can you
7 repeat.

8 A. No.

9 Q. Our data shows that in 2019 tinted windows
10 tickets did drop. Can you explain the reason
11 for the drop in ticketing?

12 MR. SAHASRABUDHE: Objection to form.

13 A. No.

14 Q. Next I'd like to discuss changes to policing
15 practices that the city made after 2020 and
16 the reasons for those changes.

17 I'd like to start with the pandemic.

18 Did COVID affect the BPD's operations?

19 MR. SAHASRABUDHE: Objection to form.

20 A. Yes.

21 Q. How?

22 MR. SAHASRABUDHE: Objection to form.

23 A. We had some of the precinct houses, we had to

1 They didn't want police patrolling BMHA.
2 So that was a discussion with the City and
3 BMHA and I guess the contract just wasn't
4 renewed, so when it wasn't renewed we
5 disbanded the unit.

6 Q. Did anything replace the Housing Unit?

7 MR. SAHASRABUDHE: Objection to form.

8 A. They came up -- yes. They came up with an
9 idea of each district will have a community
10 police officer assigned to the housing complex
11 unit.

12 Q. And what was the job responsibility of the
13 community policing officer?

14 A. The job was to do community policing in the
15 housing complex to assist citizens to work
16 with the children, to help setup programs over
17 there and also attend the meetings.

18 Q. Did the job of the community policing officer
19 include traffic enforcement around the BMHA
20 building?

21 MR. SAHASRABUDHE: Form.

22 A. If there was a traffic violation then their
23 job was to enforce the traffic violation, yes.

1 Q. Did these community policing officers engage
2 in traffic enforcement as frequently as the
3 Housing Unit officers had done?

4 MR. SAHASRABUDHE: Objection to form.

5 A. That I couldn't -- I have no documents
6 comparing that.

7 Q. Did the community police officers have to fill
8 out Housing Unit statistical reports that were
9 similar to those filled out by the Housing
10 Unit?

11 MR. SAHASRABUDHE: Form.

12 A. They had to fill out activity reports.

13 Q. Did the report include counting the numbers of
14 traffic violations issued?

15 A. I'm sure if they gave some traffic tickets out
16 it would be in their report.

17 Q. Do you recall if the report that the community
18 policing officers filled out had a series of
19 columns for statistics including traffic
20 summonses issued, traffic misdemeanors,
21 arrests, quality of life violations issued and
22 those other sorts of statistics?

23 A. The community police officers that was

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1 assigned there after the housing unit, right
2 now I can't remember what their activity
3 report had. I can't remember that right now.

4 Q. Did there come a time in 2020 when you made
5 changes to the BPD's tinted windows ticketing
6 practices?

7 MR. SAHASRABUDHE: Form.

8 A. No.

9 Q. So if there was a change in frequency of
10 tinted windows ticketing it wasn't something
11 that you caused or ordered?

12 A. No.

13 Q. And in December, 2020 you disbanded the
14 Traffic Unit, right?

15 A. Yes.

16 Q. Why did you decide to disband the Traffic
17 Unit?

18 A. We felt that the district can do a better --
19 we felt the district can handle traffic in
20 their districts.

21 Q. How was traffic enforcement handled after the
22 Traffic Unit was disbanded?

23 MR. SAHASRABUDHE: Objection to form.

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1 the year that it was presented.

2 Q. Can you tell me when this policy would have
3 been issued?

4 A. No. I don't know when.

5 Q. But you believe that it's posted on bulletin
6 boards in the station houses?

7 A. Yes. Before I became commissioner there were
8 -- yeah. Yeah.

9 Q. Did you ever issue a commissioner's memo on
10 racial profiling or biased policing?

11 A. No.

12 Q. Did you ever cause a training bulletin to be
13 issued on racial profiling or biased policing?

14 A. No.

15 Q. Did you take any affirmative steps to identify
16 whether your officers were engaging in
17 racially-biased traffic enforcement?

18 MR. SAHASRABUDHE: Objection to form.

19 A. Are you saying traffic?

20 Q. Yes.

21 A. I had no complaints when I was commissioner.

22 Q. Okay. And my question was did you take any
23 affirmative steps to identify whether your

1 officers were engaging in racially-biased
2 traffic enforcement?

3 MR. SAHASRABUDHE: Objection to form.

4 A. No.

5 Q. Did you take any affirmative steps to identify
6 and correct racial bias on the part of BPD
7 officers?

8 MR. SAHASRABUDHE: Objection to form.

9 A. If there was a --

10 MR. SAHASRABUDHE: Objection to form.

11 A. If there was a complaint -- I had no
12 complaints, so no.

13 Q. Can you recall a specific incident in which
14 you disciplined an officer for engaging in
15 racial profiling?

16 MR. SAHASRABUDHE: Objection to form.

17 A. I can't think of none offhand.

18 Q. Can you recall a specific incident in which
19 you disciplined an officer for engaging in
20 racially-biased policing?

21 MR. SAHASRABUDHE: Objection to form.

22 A. I can't. No, I can't remember that, no.

23 Q. Are you aware of any instances in which the

1 A. I can't remember.

2 Q. Can you remember if they received complaints
3 of racial discrimination?

4 MR. SAHASRABUDHE: Objection to form.

5 A. No.

6 Q. Did you have systems that were setup to alert
7 you if the same officer received multiple
8 complaints of discrimination?

9 MR. SAHASRABUDHE: Objection to form.

10 A. I didn't have -- we didn't have a system
11 setup, but if it was racially involved I think
12 I would remember it.

13 Q. Is it possible that there could be complaints
14 of racial discrimination against an officer
15 that you would never see?

16 MR. SAHASRABUDHE: Form.

17 A. If it was reported to Internal Affairs then
18 unless a case opened up on it then I would --
19 well, if I'm sitting in that file review I
20 would see it. I wasn't in all file reviews.
21 I wouldn't see something if it was reported to
22 the FBI or another agency, you know, another
23 state agency. No, I wouldn't know that.

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1 race is. Just look on the license and what is
2 up on the license, that's the race.

3 Q. Well, New York State doesn't have race on the
4 license, right?

5 MR. SAHASRABUDHE: Form.

6 A. I think when I got my first license I had race
7 on it. Maybe they changed it.

8 Q. Did you think it was important to be able to
9 identify racial disparity in the BPD's
10 ticketing practices?

11 MR. SAHASRABUDHE: Objection to form.

12 A. No. I don't think -- I mean, I didn't think
13 race was that important. You give a ticket,
14 you give a ticket.

15 Q. Why did you require officers to record the
16 race of people issued stop receipts, but not
17 the race of people issued traffic summons?

18 MR. SAHASRABUDHE: Objection to form.

19 A. I don't remember giving that order.

20 Q. We looked at the traffic receipts training
21 bulletin, right, and it specifically says that
22 race was to be recorded, correct?

23 MR. SAHASRABUDHE: Objection to form.

1 to enter the race into TraCS?

2 MR. SAHASRABUDHE: Objection to form.

3 A. No. I'm not aware of the police -- I mean,
4 I'm not aware of what the state police was
5 doing.

6 Q. Is it fair to say that you just didn't think
7 it was important to know the race of people
8 being ticketed?

9 MR. SAHASRABUDHE: Objection to form.

10 A. Yes.

11 Q. Did you personally review the stop receipt
12 data that was collected?

13 A. No.

14 Q. Did you ask anybody else to review the data?

15 A. That data was -- I want to say had to be
16 reviewed by one of the deputies.

17 Q. Which deputy would have reviewed the data?

18 A. That one I'm not sure, but I know it was being
19 reviewed by one of the deputies.

20 Q. So Gramaglia or Lark?

21 A. Yes.

22 Q. Were you aware that around 25 percent of the
23 time officers did not fill out the race field?

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1 A. No.

2 MR. SAHASRABUDHE: Object to form.

3 Q. Were you aware that the traffic stop receipt
4 data showed racial disparities and that Black
5 drivers were stopped more often than White
6 drivers?

7 MR. SAHASRABUDHE: Objection to form.

8 A. No.

9 Q. Do you think you should have been aware of
10 that?

11 MR. SAHASRABUDHE: Objection to form.

12 A. Yeah. Yeah.

13 Q. Did the BPD collect data on vehicle impounds
14 by the race of the driver or the vehicle
15 owner?

16 MR. SAHASRABUDHE: Form.

17 A. The BPD what about the impound again?

18 Q. Did you collect data on the race of the driver
19 or the vehicle owner involved with an impound?

20 MR. SAHASRABUDHE: Form.

21 A. No. No.

22 Q. Did the BPD collect data on the race of IAD
23 complainants?

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1 A. No.

2 Q. While you were commissioner did the BPD have
3 an early warning system to identify officers
4 who engaged in problematic practices?

5 MR. SAHASRABUDHE: Objection to form.

6 A. Yes. They had what's called the Blue Team.

7 Q. And what was the Blue Team?

8 A. It would trigger a notice to Internal Affairs
9 when there's certain officers within a certain
10 period of time of complaints and Internal
11 Affairs would notify the chief of that
12 district so he was sent -- through the Blue
13 Team he was sent to the chief of that
14 district.

15 Q. And was Blue Team limited to excessive force?

16 A. Not just an excessive force, but it was --
17 excessive force was part of it, too.

18 Q. Was it any kind of complaint that could
19 trigger the Blue Team?

20 A. If you didn't fill out the form for using
21 force, you know, if you had to use force to
22 lock someone up you had to fill out a Blue
23 Team form.

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1 Q. What other complaints besides excessive force
2 were part of the Blue Team?

3 A. It would be complaints, you know. Any
4 complaints that would come in within a certain
5 period -- you know, if you got different
6 complaints within -- for example, within three
7 months, you know. It would probably trigger
8 the Blue Team.

9 Q. And who is in charge of the Blue Team?

10 A. That would be the inspector of Internal
11 Affairs.

12 Q. Did the BPD conduct regular performance
13 evaluations of officers?

14 MR. SAHASRABUDHE: Objection to form.

15 A. Evaluations is something that we -- it would
16 have to be contractual with the union. I
17 don't know what you mean by evaluation. We
18 can't -- by contract we can't do evaluations.

19 Q. So the answer to my question is no, the BPD
20 does not conduct regular performance
21 evaluations of officers?

22 MR. SAHASRABUDHE: Objection to form.

23 A. No, because of the contract.

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1 Q. Did the BPD evaluate officers' performance in
2 any way?

3 A. We can evaluate when you first come on the job
4 for the first 18 months. And we train and we
5 evaluate you. But yearly evaluations, that's
6 something contractual. Can't do it.

7 Q. When you were commissioner did you have
8 procedures in place to review body-worn camera
9 footage for general supervision purposes?

10 A. When I left we were still in the process of
11 policy -- making policy with the union on body
12 cameras, evaluations of body camera, viewing
13 the body camera, who can review it, when can
14 we review it and that was all in front of an
15 arbitrator.

16 Q. Were you involved in the contract negotiation?

17 A. Yes. Some parts of it, yes.

18 Q. You said that performance evaluations must be
19 bargained for under the contract, right?

20 A. Yes.

21 Q. There's nothing in the collective bargaining
22 agreement that prohibits performance
23 evaluations, right?

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1 MR. SAHASRABUDHE: Form.

2 A. During my tenure. I'm trying to think of the
3 individual's name. I just can't. He's a
4 lieutenant. Well, he did -- it wasn't racial,
5 but he was unprofessional when he went out and
6 called a young lady out of her name. I
7 brought him up on suspension, brought him up
8 on charges. He was going to an arbitrator and
9 he decided he was just going to retire. I
10 can't think of the name.

11 Q. I'm sorry. Let me understand this. This was
12 a lieutenant who -- what conduct was the
13 lieutenant complained of doing?

14 A. His conduct was he addressed a female citizen
15 out of her name. He called her a cunt. I
16 suspended -- they brought him up on charges.
17 My recommendation was termination. He went to
18 an arbitrator and before the arbitrator can
19 come up with a finding he retired.

20 Q. Okay. And was this an incident where it was
21 broadcast on social media?

22 A. It was broadcast around the country.

23 Q. Okay. So other than that one incident, can

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1 you were commissioner which is a much shorter
2 period of time than it is when you had
3 responsibility for Internal Affairs
4 investigation.

5 During that period of time when you were
6 commissioner did a complaint of rudeness or
7 discourtesy ever result in a guilty plea or
8 finding?

9 MR. SAHASRABUDHE: Form.

10 A. I just gave you the one rudeness. That's the
11 only one that I can think of that I went for a
12 termination on. I can't think of any specific
13 ones right now, no. I just can't think of
14 them.

15 Q. How many complaints of excessive force,
16 rudeness or discourtesy would you say you
17 handled as commissioner?

18 MR. SAHASRABUDHE: Objection to form.

19 A. I'm quite sure I had -- I'm quite sure I had a
20 few of them.

21 Q. Would it have been more than ten?

22 A. During my four-year period I would say maybe.

23 Yeah. I'm not sure. The cases, you know, you

1 get the cases about an accident, you get a
2 case about someone's lateness, someone missed
3 a call. You get all these different cases in
4 there and it's just hard for me right now to
5 sit here and say what particular ones because
6 they all come in different forms.

7 Q. It's fair to say that as commissioner you
8 reviewed a number of complaints that involved
9 allegations of excessive force, rudeness,
10 discourtesy, right?

11 A. I have, yes.

12 Q. And none of those cases resulted in a guilty
13 plea or a finding, right?

14 MR. SAHASRABUDHE: Objection to form.

15 A. I wouldn't say that, no.

16 Q. You just told me that you couldn't remember
17 any of them that did result in a guilty plea
18 or finding.

19 A. I can't -- you was asking specifics. I can't
20 say specific, but I'm not going to say every
21 case that came before me was not, you know,
22 there was no discipline there. I'm not going
23 to sit and say that. I'm going to have to see

1 it.

2 Q. How often did those meetings take place?

3 A. Sometimes it would take place every other week
4 or if they needed to -- I would say within a
5 month period of time I would say probably
6 twice out of the month.

7 Q. And if a complaint against an officer was not
8 sustained the commissioner would have the
9 option to send the officer for an informal
10 conference, right?

11 A. If it wasn't sustained then he would -- no.
12 He wouldn't -- if it was not sustained it
13 wouldn't say the case is completely closed at
14 this particular time. There's not enough
15 evidence to move forward with it.

16 Q. Okay. Did Commissioner Derenda from time to
17 time direct you to conduct informal
18 conferences with officers who had complaints
19 filed against them?

20 A. Yes.

21 Q. And what was the purpose of the informal
22 conference?

23 A. You would conference them all whatever the

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1 complaint is about.

2 Q. So in general what would happen during an
3 informal conference?

4 MR. SAHASRABUDHE: Objection to form.

5 A. The officer would come in and sometimes their
6 chief would come in with them and wherever the
7 complaint is you would conference them on the
8 complaint, you know. You would conference
9 them. You would talk to them about the
10 complaint.

11 Q. And how long did the conferences usually take?

12 A. Various. There was no set time. Varied
13 times.

14 Q. Could you give me a range of times that they
15 might typically be?

16 A. Could be anywhere from 20 minutes to an hour.
17 It depends.

18 Q. How did you prepare for an informal
19 conference?

20 A. You read the case file.

21 Q. So was your practice to review the case file
22 prior to the informal conference?

23 A. Yes. Before the officer comes in, yes.

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1 most part the files that we reviewed did not
2 contain transcripts, written transcripts of
3 the interviews.

4 Q. So when Commissioner Derenda directed you to
5 conduct an informal conference did he give you
6 instructions about what to address in the
7 conference?

8 A. No. He would just assign the conference to
9 either myself or the other deputy or sometimes
10 they would have a chief conference with their
11 chief.

12 Q. Okay. And I'm speaking specifically about the
13 conferences that you did. When you conducted
14 an informal conference did you inform the
15 officer's chief?

16 A. Did I inform them?

17 Q. Yes. Would the chief know? The chief of the
18 person who was being conferenced, would they
19 know that there was a conference?

20 MR. SAHASRABUDHE: Form.

21 A. Yes. Yes. They would know.

22 Q. And would the lieutenant know?

23 MR. SAHASRABUDHE: Form.

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1 A. Which lieutenant are we talking about?

2 Q. The lieutenant of the person who is being
3 conferenced, their direct supervisor. Would
4 their direct supervisor know that they were
5 being conferenced?

6 MR. SAHASRABUDHE: Form.

7 A. That would be up to the chief. We would just
8 send it to the chief. I would say that the
9 chief would let the lieutenant know that one
10 of his officers is being -- have to go to a
11 conference.

12 Q. Did you discuss with the chief the contents of
13 the conference?

14 A. No.

15 Q. So the conference was just between you and the
16 person who is being conferenced?

17 A. Yes. With me and the officer and, like I
18 said, if the chief was there he would be
19 involved, too.

20 Q. Did the officer's direct supervisor know like
21 what the person was being conferenced about?
22 In other words, you're trying to correct --
23 well, scratch that.

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1 Let me back up for a second. Is the
2 purpose of the conference to correct the
3 officer's behavior so they don't engage in a
4 similar behavior again in the future?

5 MR. SAHASRABUDHE: Form.

6 A. Yes.

7 Q. But did you tell the officer's direct
8 supervisor what the behavior was that they
9 needed to correct that was being discussed in
10 the conference?

11 MR. SAHASRABUDHE: Objection to form.

12 A. Their chief would know.

13 Q. So for example, if it was a complaint of
14 rudeness or discourtesy and you were
15 counseling the officer about their
16 discourteous behavior you would tell the chief
17 I'm counseling officer so-and-so about his
18 discourtesy in this incident?

19 MR. SAHASRABUDHE: Form.

20 A. The chief would know what I'm conferencing
21 when he comes down because when we send in the
22 paperwork -- when we send the form down there
23 that he has to report he would have to report,

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1 but the majority of the time I would -- the
2 chief would probably ask me, you know, or he
3 would tell me I'll be down with my officer on
4 this conference and I would probably say yeah.
5 At that probably particular time I would say
6 yes, you know, what the case is about and what
7 the conference is going to be about.

8 Q. And after that it would be up to the chief to
9 supervise the officers so that the behavior is
10 not repeated?

11 MR. SAHASRABUDHE: Objection to form.

12 A. The chief should -- the chief probably would
13 have a conversation with the officer and the
14 chief should have a conversation with his
15 immediate supervisor, too.

16 Q. Is there any specific document or policy that
17 spells this out anywhere?

18 MR. SAHASRABUDHE: Form.

19 A. When I have a conference with them I use -- I
20 would send something back in the file saying
21 that I conferenced.

22 Q. I think I have seen those. It says that a
23 conference happened, but it doesn't say what

1 the conference was about.

2 A. Well, the conference -- the file right there
3 tell you -- the file tells you what the
4 complaint is and I'm conferencing on the
5 complaint in the file.

6 Q. Was it your practice to keep notes or records
7 of the conferences?

8 MR. SAHASRABUDHE: Form.

9 A. No. I didn't keep notes of it, no.

10 Q. And after you conducted the conference did you
11 do any kind of follow-up?

12 A. No. I didn't follow-up on that officer. Once
13 I conferenced him and the chief was there, the
14 chief -- I assume the chief probably spoke
15 with them afterwards and it went down to his
16 lieutenant and that was the basis of it.

17 Q. So you relied on the chain of command; isn't
18 that correct?

19 A. Yes.

20 Q. Did you have any way to assess whether the
21 conference was effective?

22 MR. SAHASRABUDHE: Objection to form.

23 A. I would say that officer I conferenced -- I

1 can't remember conferencing someone on the
2 same, same topic. I can't remember that.

3 Q. And I'll look at an example of a file in which
4 you conducted a conference. This is going to
5 be Lockwood 36 and this is the IAD file of a
6 complaint filed by Alex Overton.

7 It's a 2016 complaint. And can you see
8 here in this disposition box that this
9 complaint was not sustained and was ordered to
10 conference with you?

11 A. I don't have the whole form up. I mean, I see
12 the form.

13 Q. Do you see where it says not sustained and
14 other, DPC conf, Lockwood?

15 A. Yes.

16 Q. And I'm going to go to page 15 and that's
17 going to have the investigative summary. Let
18 me start at the top and then go down for you.

19 A. Okay.

20 Q. So this is a complaint against Housing Unit
21 Officer Joseph Acquino and the complaint is
22 that Acquino called him "a smart ass
23 motherfuckin' N word" and pulled him out of

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1 STATE OF NEW YORK)

2 COUNTY OF ERIE)

3
4 I, Rebecca Lynne DiBello, CSR, RPR, Notary
5 Public, in and for the County of Erie, State of
6 New York, do hereby certify:

7 That the witness whose testimony appears
8 hereinbefore was, before the commencement of
9 their testimony, duly sworn to testify the
10 truth, the whole truth and nothing but the
11 truth; that said testimony was taken pursuant
12 to notice at the time and place as herein set
forth; that said testimony was taken down by me
and thereafter transcribed into typewriting,
and I hereby certify the foregoing testimony is
a full, true and correct transcription of my
shorthand notes so taken.

13 I further certify that I am neither counsel
14 for nor related to any party to said action,
15 nor in anyway interested in the outcome
thereof.

16 IN WITNESS WHEREOF, I have hereunto
17 subscribed my name and affixed my seal this
18 31st day of August, 2023.

19 

20 -----
21 Rebecca Lynne DiBello, CSR, RPR
22 Notary Public - State of New York
23 No. 01D14897420
Qualified in Erie County
My commission expires 5/11/2027

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